

AMENDED IN SENATE JUNE 12, 2013

AMENDED IN SENATE MAY 13, 2013

**SENATE BILL**

**No. 338**

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**Introduced by Senator Hill**

**(Coauthor: Senator Yee)**

(Coauthors: Assembly Members Campos, Fong, Mullin, and Ting)

February 20, 2013

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~~An act to add Section 28062 to the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately. An act to amend Section 5374 of the Public Utilities Code, relating to charter-party carriers of passengers, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 338, as amended, Hill. ~~Fire extinguishers; limousines. Charter-party carriers of passengers; fire extinguishers.~~

*The California Constitution establishes the Public Utilities Commission with jurisdiction over all public utilities, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. Charter-party carriers of passengers, as defined, are subject to the jurisdiction and control of the commission under the Passenger Charter-Party Carriers' Act. The act defines a charter-party carrier of passengers, subject to certain exceptions, to mean every person that is engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway.*

*The Passenger Charter-Party Carriers' Act requires a charter-party carrier of passengers to obtain from the commission a certificate that public convenience and necessity require the operation or a permit issued by the commission, and to operate within the state on a prearranged basis, as defined. The act prohibits the commission from issuing or renewing a permit unless the applicant has met specified requirements, including the requirement that it will maintain its vehicles used in transportation for compensation in a safe operating condition. A violation of these provisions is a crime.*

Existing law requires new and used recreational vehicles and campers that are equipped with cooking or heating equipment to be sold equipped with a fire extinguisher, as specified. Under existing law, a violation of this provision is a crime.

This bill would require limousines, as defined, a charter-party carrier of passengers to be equipped equip each of its vehicles with a fire extinguisher 2 readily accessible and fully charged fire extinguishers, as specified. Because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 28062 is added to the Vehicle Code, to~~
- 2     ~~read:~~
- 3     ~~28062. (a) Every limousine shall be equipped with one fully~~
- 4     ~~charged fire extinguisher having at least a 4B:C rating.~~
- 5     ~~(b) For the purposes of this section, "limousine" includes any~~
- 6     ~~sedan or sport utility vehicle, of either standard or extended length,~~
- 7     ~~with a seating capacity of not more than 10 passengers including~~
- 8     ~~the driver, used in the transportation of passengers for hire on a~~
- 9     ~~prearranged basis within this state.~~

1     *SECTION 1. Section 5374 of the Public Utilities Code is*  
2     *amended to read:*

3     5374. (a) (1) Before a permit or certificate is issued or  
4     renewed, the commission shall require the applicant to establish  
5     reasonable fitness and financial responsibility to initiate and  
6     conduct or continue to conduct the proposed or existing  
7     transportation services. The commission shall not issue or renew  
8     a permit or certificate pursuant to this chapter unless the applicant  
9     meets all of the following requirements:

10    (A) It is financially and organizationally capable of conducting  
11    an operation that complies with the rules and regulations of the  
12    Department of the California Highway Patrol governing highway  
13    safety.

14    (B) It is committed to observing the hours of service regulations  
15    of state and, where applicable, federal law, for all persons, whether  
16    employees or subcarriers, operating vehicles in transportation for  
17    compensation under the certificate.

18    (C) It has a preventive maintenance program in effect for its  
19    vehicles used in transportation for compensation that conforms to  
20    regulations of the Department of the California Highway Patrol  
21    in Title 13 of the California Code of Regulations.

22    (D) It participates in a program to regularly check the driving  
23    records of all persons, whether employees or subcarriers, operating  
24    vehicles used in transportation for compensation.

25    (E) It has a safety education and training program in effect for  
26    all employees or subcarriers operating vehicles used in  
27    transportation for compensation.

28    (F) It will maintain its vehicles used in transportation for  
29    compensation in a safe operating condition and in compliance with  
30    the Vehicle Code and with regulations contained in Title 13 of the  
31    California Code of Regulations relative to motor vehicle safety.

32    (G) *It has equipped each of its vehicles with two readily*  
33    *accessible and fully charged fire extinguishers having at least a*  
34    *2A10BC 5lb rating, maintained in efficient operating condition,*  
35    *and securely mounted in the driver's compartment and in the*  
36    *vehicle's trunk in a conspicuous place or a clearly marked area*  
37    *in each of those two locations.*

38    ~~(G)~~

1 (H) It has filed with the commission the certificate of workers'  
2 compensation insurance coverage or statement required by Section  
3 5378.1.

4 ~~(H)~~

5 (I) It has provided the commission an address of an office or  
6 terminal where documents supporting the factual matters specified  
7 in the showing required by this subdivision may be inspected by  
8 the commission and the Department of the California Highway  
9 Patrol.

10 ~~(I)~~

11 (J) It provides for a mandatory controlled substance and alcohol  
12 testing certification program as adopted by the commission  
13 pursuant to Section 1032.1.

14 ~~(J)~~

15 (K) Subparagraphs (C), (F), and ~~(H)~~ (I) do not apply to a  
16 charter-party carrier of passengers engaged in the provision of a  
17 hired driver service when a rented motor vehicle is being operated  
18 by the hired driver.

19 (2) With respect to subparagraphs (B) and (F) of paragraph (1),  
20 the commission may base a finding on a certification by the  
21 commission that an applicant has filed, with the commission, a  
22 sworn declaration of ability to comply and intent to comply.

23 (3) The commission may require, as a precondition to the  
24 issuance of a permit or certificate, the procurement of a  
25 performance bond sufficient to facilitate the collection of fines,  
26 penalties, and restitution related to enforcement actions that can  
27 be taken against the applicant.

28 (b) In addition to the requirements in subdivision (a),  
29 charter-party carriers shall meet all other state and, where  
30 applicable, federal regulations as prescribed.

31 (c) The commission may delegate to its executive director or  
32 that executive director's designee the authority to issue, renew, or  
33 authorize the transfer of, charter-party carrier permits or certificates  
34 and to make the findings specified in subdivision (a) that are  
35 necessary to that delegated authority.

36 SEC. 2. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or  
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of  
2 the Government Code, or changes the definition of a crime within  
3 the meaning of Section 6 of Article XIII B of the California  
4 Constitution.

5 SEC. 3. This act is an urgency statute necessary for the  
6 immediate preservation of the public peace, health, or safety within  
7 the meaning of Article IV of the Constitution and shall go into  
8 immediate effect. The facts constituting the necessity are:

9 In order to ensure ~~the limousine-using public~~ *that passengers of*  
10 *charter-party carriers* are protected with fire extinguishers at the  
11 earliest possible time, it is necessary for this act to take effect  
12 immediately.